IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.1027 OF 1992.

The State of Maharashtra : Appellants.

versus

Smt.Pratibha H. Chavan : Respondent.

Mr.B.R.Patil, Acting Government Pleader, for the State.

Mr.K.S.Patil i/by Mr.P.N.Joshi for respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 4th April 2005.

ORAL ORDER

1. Heard the learned AGP for the State and Mr.Patil for the respondent. The State has filed this appeal challenging the order dated 18.12.1991 of the Reference Court i.e. Joint District Judge of Nashik at Nashik, enhancing the compensation for the acquired land from Rs.9/- per sq.mtr to Rs.25/- per sq.mtr.

2. 11000.81 sq.mtrs of the land of the respondent was acquired by notification under section 4 dated 31.1.1985 and claimant was awarded Rs.9265/- per hectare. He was dis-satisfied with this compensation. He, therefore, made a reference under Section 18 of the Land Acquisition Act. The Reference Court awarded Rs.25/- per sq.mtr and, therefore, this appeal by the State.

3. However, on perusal of the judgment of the reference Court, the order of the reference Court appears to be proper. Two sale instances were relied upon by the claimant. In the sale instance of Murlidhar (C.W.2) the rate was Rs.70/- per sq.mtr. and the sale deed was of 1970. But in the another sale instance of the said Murlidhar of 1980 the price of the land came to Rs.48/- per sq.mtr. The Court, therefore, rightly held that there was no tendency of increasing the prices of land and the difference between the price was Rs.22/- within the span of five years. Further the Court found that those two plots of Murlidhar (C.W.2) and Daulat (C.W.3) were situated on the side of village where people

were living and whereas the acquire land was at 1/2 k.m. away from the gaothan. The Court, therefore, considered that Rs.25/- per sq.mtr was the proper price for the acquired land. The reference Court thereafter also accepted the contention of the learned AGP about deduction of 30% for improvements of land. Therefore, from the total price of Rs.3,88,437.50 ps., Rs.1,16,531.25 p. was deducted.

2. It is true that the area of land acquired is large area, but since the reference Court has already deducted 30%, no further deduction in the enhancement is found necessary. Hence, there is no merit in this appeal. It is dismissed. No order as to costs.

[D.G.DESHPANDE]

04/04/2005 JUDGE.